



Redistricting Presentation to Georgia Redistricting Committees

Ben Williams

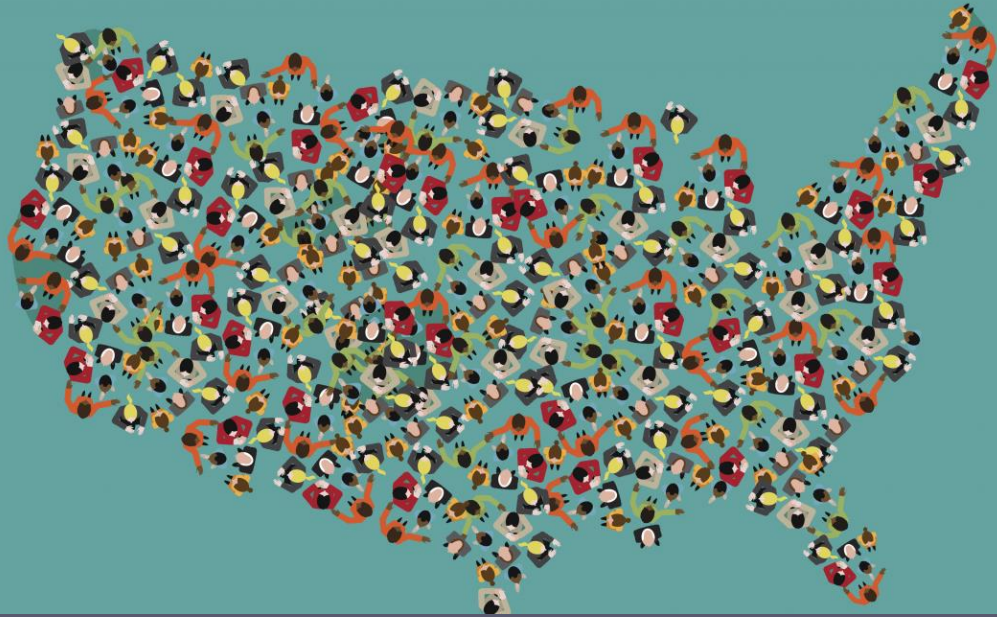
Program Principal, Elections and Redistricting

August 30, 2021



Strengthening the legislative institution

2020 U.S. CENSUS



The Census Matters



NATIONAL CONFERENCE OF STATE LEGISLATURES



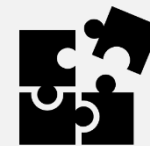
Funding

\$23.8 billion/year in
federal funds
distributed to Georgia



Apportionment

Georgia's voice in
Congress



Redistricting

Fulfilling "One
Person, One Vote"



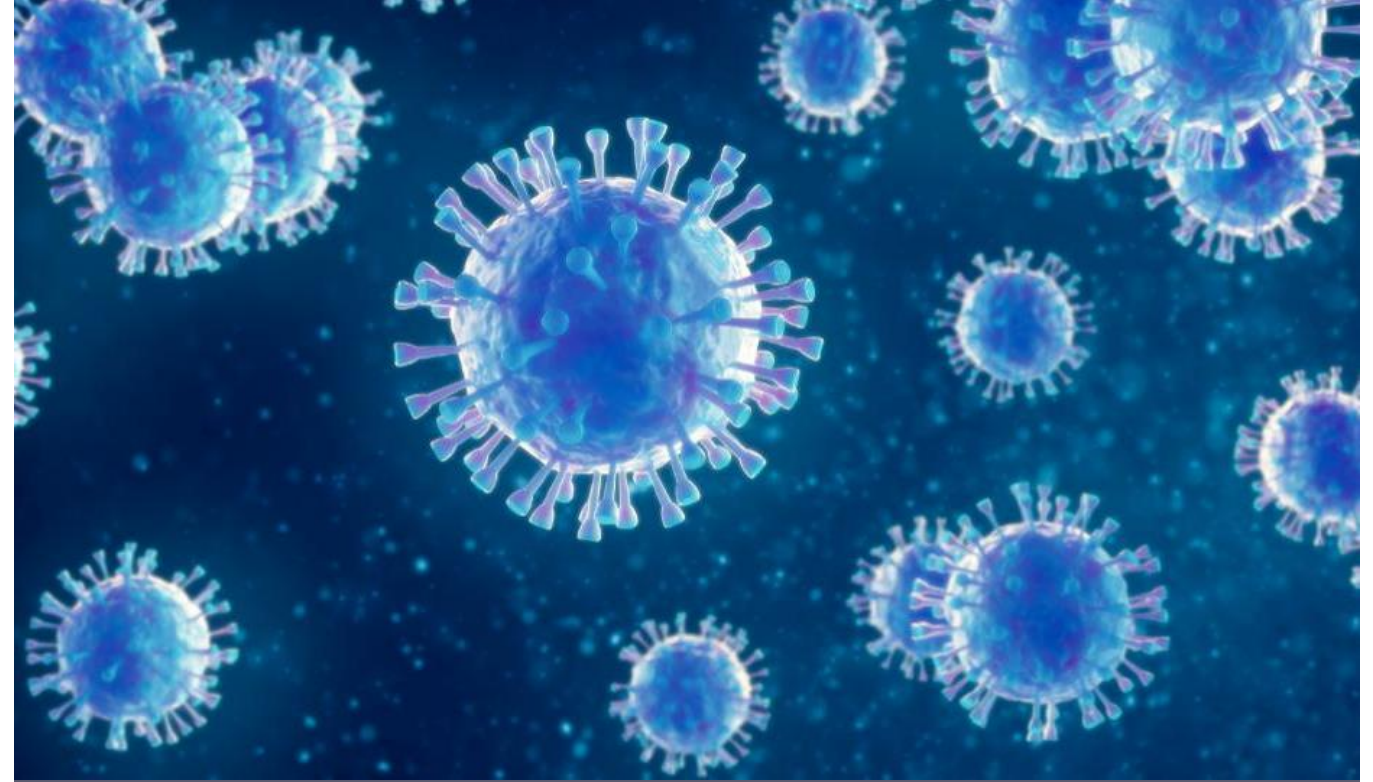
Policymaking

Crafting policies for the
people of Georgia

2020 Redistricting Data

Due: April 1 (by federal statute)

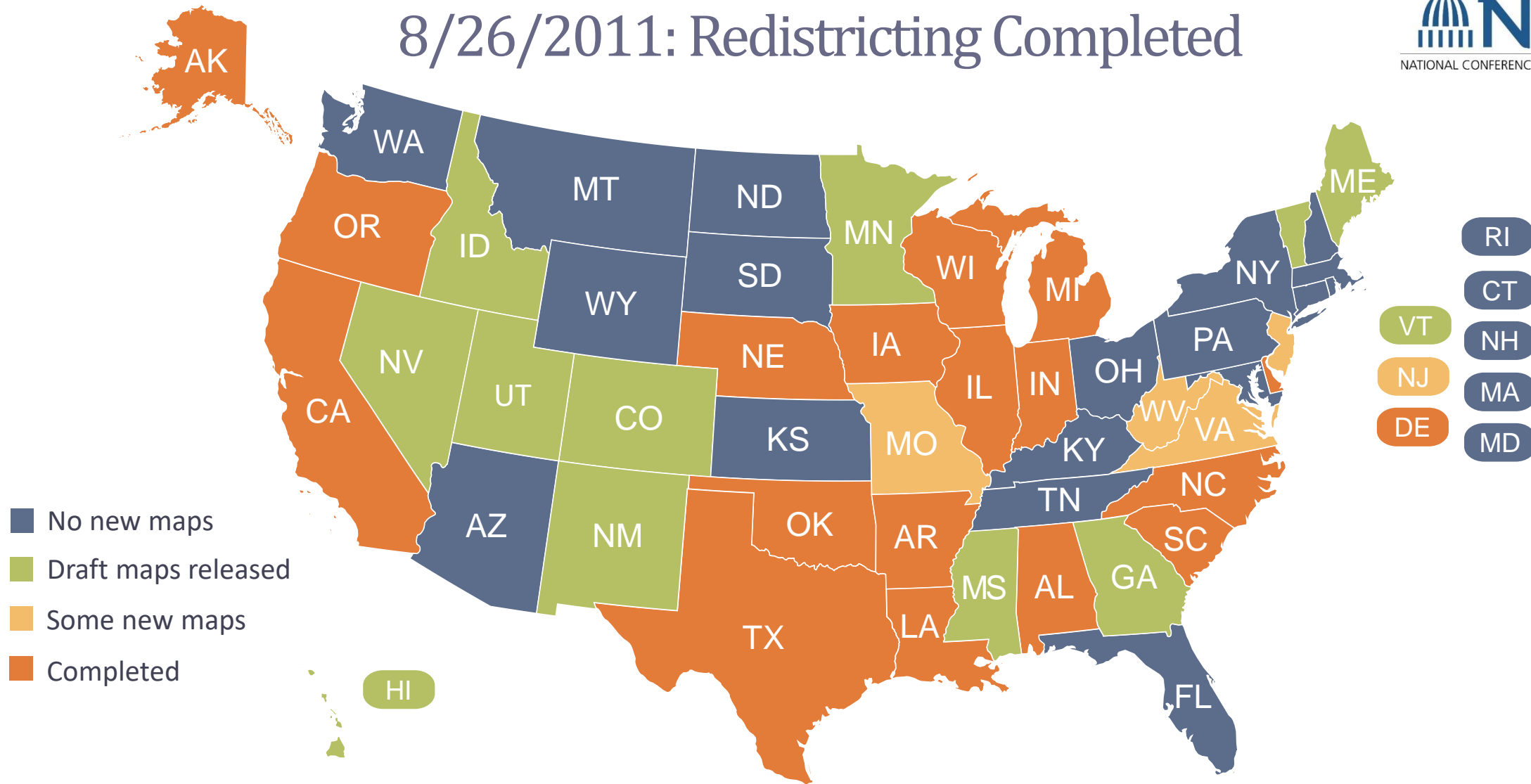
Delivered: August 12



Delays

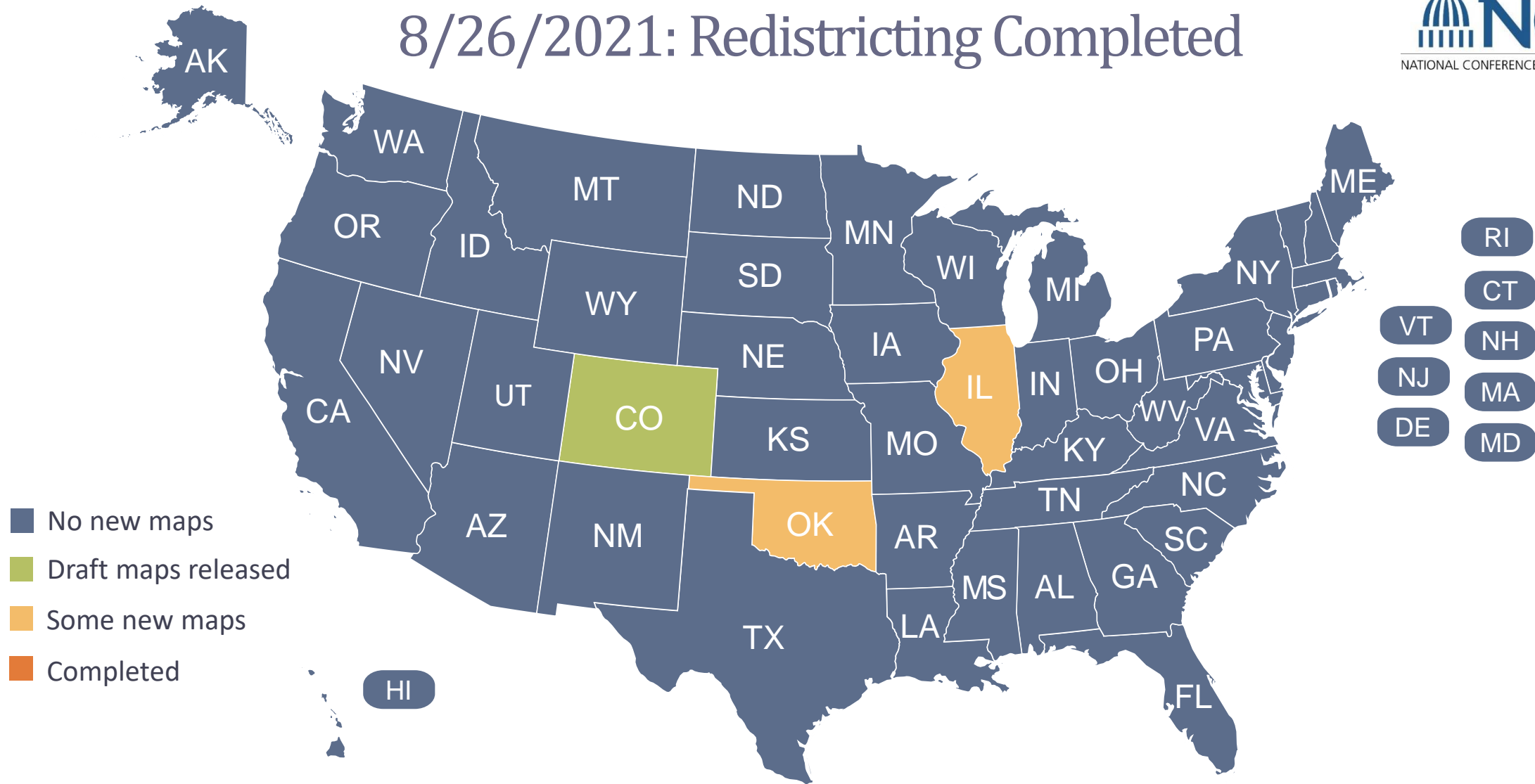
The pandemic, fires, floods and policy changes caused counting and post-counting processes to be delayed.

8/26/2011: Redistricting Completed



Source: All About Redistricting; Ballotpedia

8/26/2021: Redistricting Completed



Disclosure avoidance

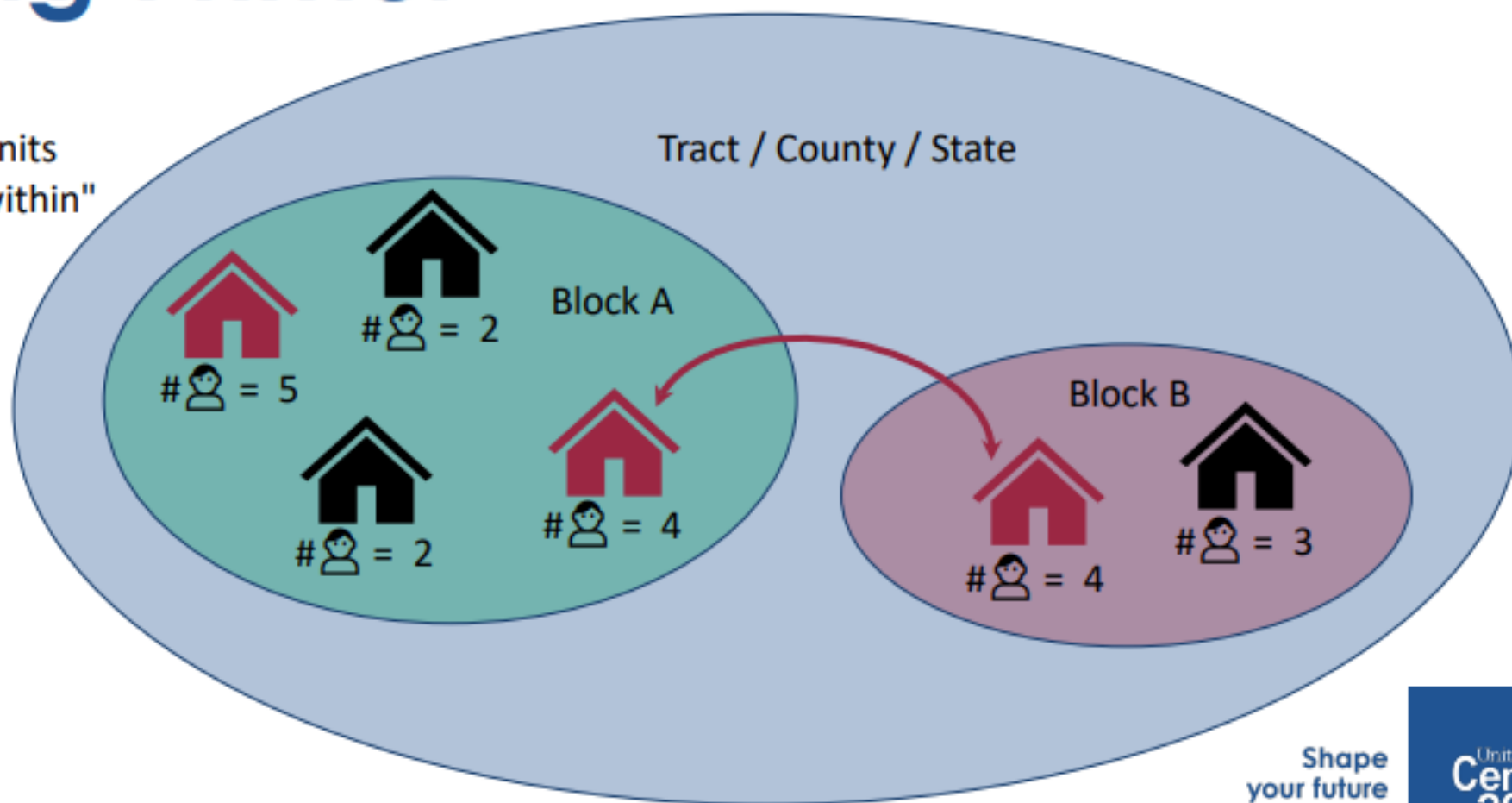
- Federal statutes require the protection of respondents' information*
- The previous system proved to be breakable
- Any system to protect privacy reduces accuracy and usability

**There's a federal requirement to provide population data at the block level too*



Swapping Primer

1. Determine key to match units
2. Choose "between" and "within" geographies
3. Determine units to swap
4. Select swap rate
5. Find swap pairs



Noise

Inserting error to increase uncertainty.

14	41	50	58	65
15	24	26	30	25
52	53	66	47	51
68	6	44	17	32
38	26	33	42	64



13	41	51	58	65
15	24	25	30	24
51	54	66	48	51
68	6	44	16	32
38	25	33	42	65

Using differential privacy to protect data means...

- Only state total population will be reported without “noise”
- Data at the census block level is especially well protected—which means it has more “noise” than other levels of geography
- Distortions in small town populations in rural areas are likely to be greater than in urban areas

Race in Redistricting: Threading the Needle

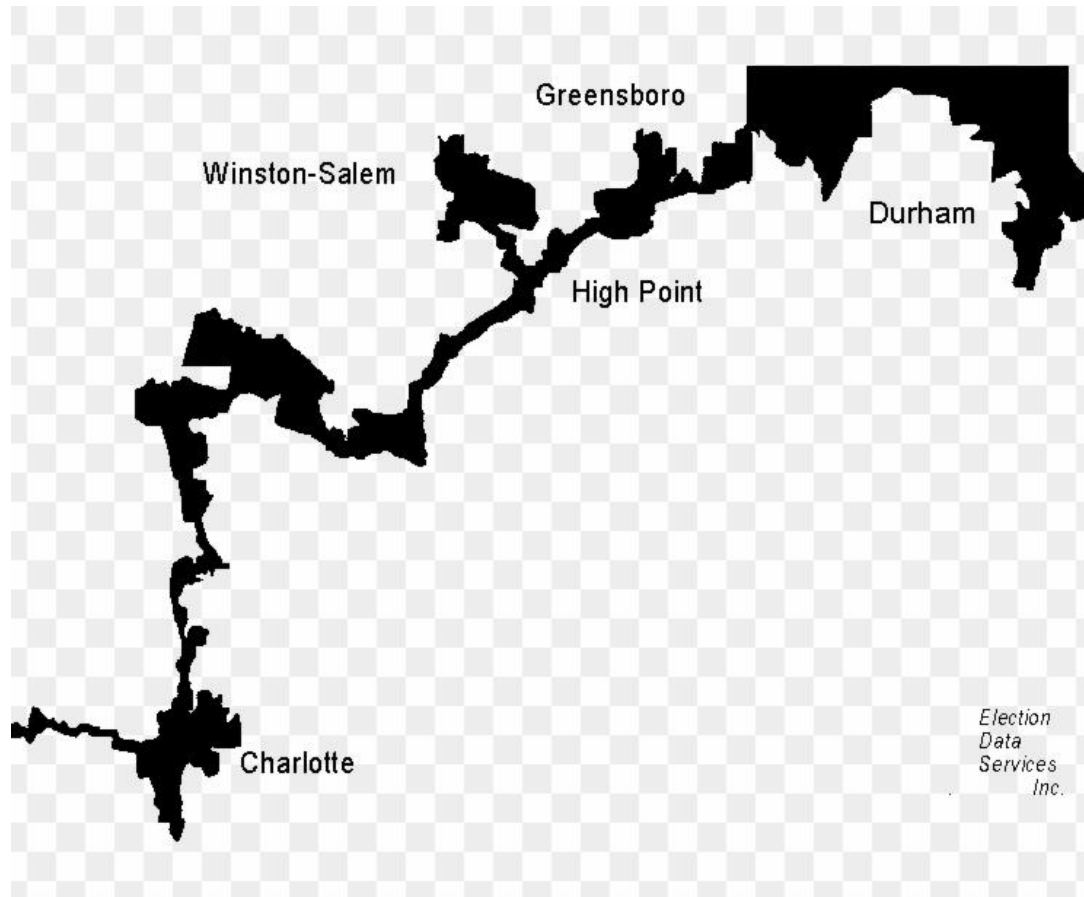
You Must Consider Race...

- Required by the Voting Rights Act
- **Standard:** “Opportunity to elect candidate of choice”
- Doctrine has not changed, even after *Brnovich v. Democratic Nat’l Committee*
 - Vote denial
 - Vote dilution

But Only When Necessary

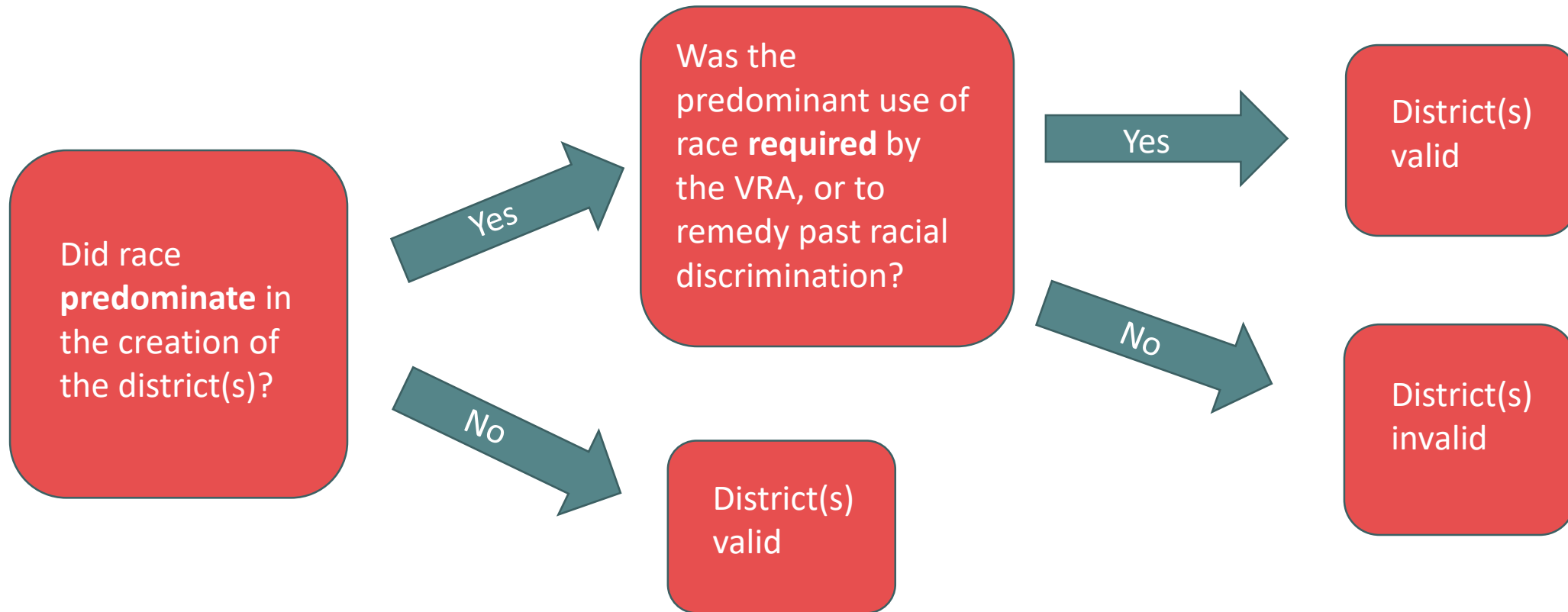
- Unnecessary consideration of race prohibited by the Equal Protection Clause
- **Doctrine:** Racial gerrymandering
- But note: racial or ethnic groups can have non-racial interests that bind them together
 - Example: Meatpackers in rural Midwest

US Constitution: Racial Gerrymandering



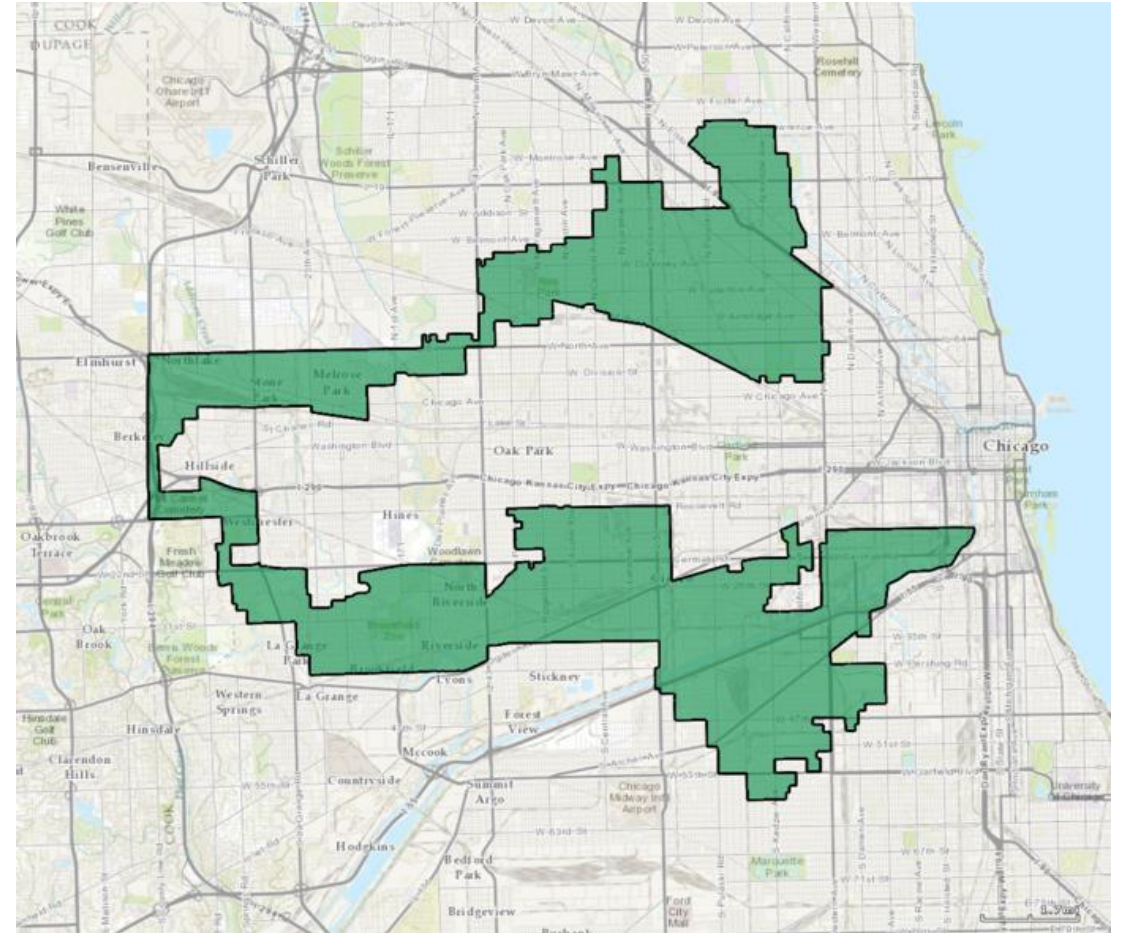
- Equal Protection Clause claim
- Origin: *Shaw v. Reno* (1993)
- Claim has evolved over time
- Test: **Predominance**
 - Was race the predominant factor in the construction of a particular district?

Racial Gerrymandering: Legal Analysis



Section Two: Overview

- Prohibits Vote Dilution
- Applies Nationwide
- Requires litigation (not prophylactic)
- Burden of Proof: Discriminatory Effect
 - Plaintiffs do not need to prove discriminatory intent



Section Two: When Applies

Gingles Preconditions

Sufficiently large and geographically compact to constitute majority

Minority group is **politically cohesive**

White voters act as a bloc to defeat minority group's candidate of choice

Senate Factors

- History of official discrimination
- Racially polarized voting in the state
- Minority vote diluting election procedures
- Minority exclusion from the candidate slating process
- Discrimination in health education and employment
- Subtle or overt racial appeals in campaigns
- Extent of minority success being elected to public office

Preclearance: Sections Four and Five

SUPREME COURT OF THE UNITED STATES

Syllabus

SHELBY COUNTY, ALABAMA *v.* HOLDER, ATTORNEY
GENERAL, ET AL.

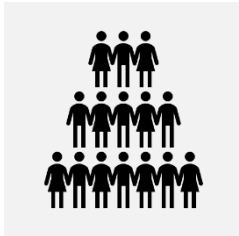
CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE DISTRICT OF COLUMBIA CIRCUIT

No. 12–96. Argued February 27, 2013—Decided June 25, 2013

The Voting Rights Act of 1965 was enacted to address entrenched racial discrimination in voting, “an insidious and pervasive evil which had been perpetuated in certain parts of our country through unremitting and ingenious defiance of the Constitution.” *South Carolina v. Katzenbach*, 383 U. S. 301, 309. Section 2 of the Act, which bans any “standard, practice, or procedure” that “results in a denial or abridgement of the right of any citizen . . . to vote on account of race



Key Takeaways



Census

- The smaller the unit of geography, the noisier the data will be
- Ask your data experts (and maybe a demographer too) what the impact on Georgia is
- There has never been a perfect census



Race

- It's a balancing act
- Supreme Court guidance can be (and often is) unclear
- What's true today might not be when the lawsuits conclude

NCSL Leadership and Officers



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Reach out anytime!

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